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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: VOLKSWAGEN "CLEAN
DIESEL" MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

This Document Relates to:

United States of America v. Volkswagen
AG, et al., Case No. 3:16-cv-00295

Civ. No. 3:16-cv-295 CRB (JSC)

STIPULATION AND ~~PROPOSED~~
ORDER REGARDING
CONFIDENTIALITY OF
SETTLEMENT DOCUMENTS AND
DISCUSSIONS REGARDING
CONTINUING SETTLEMENT
DISCUSSIONS IN *United States of*
America v. Volkswagen AG, et al. Case No.
2:16-cv-10006 (E.D. Mich. 2016)

The Honorable Charles R. Breyer

WHEREAS, upon their own initiative and at the Court's direction with the assistance of the Settlement Master consistent with Pretrial Order No. 6 (Dkt. No. 973), the United States on behalf of the Environmental Protection Agency and Volkswagen AG; Audi AG; Volkswagen Group of America, Inc.; Volkswagen Group of America Chattanooga Operations LLC; Porsche AG; and Porsche Cars North America, Inc. (together, "Defendants" and collectively with the United States, "Parties") have been discussing and will continue to discuss pre-trial resolution of certain unresolved claims related to the VW Defendants' 2.0 liter and 3.0 liter diesel vehicles;

WHEREAS, the Parties wish to maintain the confidentiality of those discussions and any settlement-related documents related to those discussions, as well as any further discussions regarding the resolution of these claims;

WHEREAS, the Parties recognize that certain settlement-related documents or information may need to be shared among certain representatives of the Parties;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties:

1. Order on Confidentiality. Pursuant to the Court's inherent jurisdiction and Federal Rule of Evidence 408, every recipient of this Order shall treat all offers and agreements on settlement terms or agreements in principle between the Parties concerning such claims, including any appendices thereto, and all drafts of all term sheets, appendices, release agreements, consent decrees, and communications regarding resolution of such claims (including the substance of any discussions and any documents prepared in connection therewith) (collectively, "Settlement Documents and Communications") as strictly confidential.

2. Parties Authorized to Share Documents Internally. Counsel for the United States and the Defendants may share Settlement Documents and Communications, whether draft or final, concerning settlement discussions between the United States and the Defendants with any individual employed by or retained on behalf of the United States, or the Defendants, respectively, if that individual has a need to know the information to further resolution of these matters or if such information is otherwise required to perform their official duties.

3. Parties' Obligation to Maintain Custodian Lists. Government Coordinating Counsel, Defendants' Liaison Counsel for the Volkswagen Group Defendants, and Defendants' Liaison Counsel for the Porsche Defendants ("Coordinating Counsel") shall each keep a list of all individuals within the group for which it has coordinating authority who have received any Settlement Documents and Communications, which shall include the name, title and affiliation of each individual. Coordinating Counsel shall periodically provide updated copies of these lists to the Settlement Master. Except in the event of a good-faith claim of violation of this Order, Coordinating Counsel agree not to request copies of these lists or determine the identities of the individuals on them.

4. Endorsing of Settlement Documents. All Settlement Documents and Communications that are exchanged between the Parties and that are subject to the terms of this Confidentiality Order shall be endorsed as "Settlement Confidential – Subject to US-VW Confidentiality Order, Civ. No. 16-295." Nothing in this Order shall limit the Parties' ability to exchange documents or communications consistent with the requirements of earlier confidentiality orders of this Court.

5. Sharing of Documents with Non-Parties. No one shall share Settlement Documents or Communications, whether draft or final, subject to this Order with any individual not employed by or retained on behalf of a Party, as defined herein, without express written consent by all Coordinating Counsel. Prior to receiving any Settlement Documents or Communications pursuant to this paragraph, each non-party individual must be provided a copy of this Order and must agree to be bound by it.

6. Freedom of Information Act. Settlement Documents and Communications shall be deemed exempt under the Freedom of Information Act, 5 U.S.C. § 552, absent good cause shown in this proceeding.

7. Distribution of this Order. Before December 28, 2016, the Parties shall provide a copy of this Order to all persons who have been included in settlement discussions. Parties are

1 obligated to provide a copy of this Order to all individuals named on the custodian lists provided
2 to the Settlement Master as provided in Paragraph 3 of this Order.

3 8. Sanctions. Any person found to be in violation of this Order will be subject to
4 imposition of sanctions.

5 Dated: December 23, 2016

Respectfully submitted,

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14 *Coordinating Counsel for the United States*

15 Dated: December 23, 2016

Respectfully submitted,

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28 *Defendants*

1 Dated: December 23, 2016

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10 Dated: December 23, 2016

Respectfully submitted,

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16 *Liaison Counsel for the Porsche Defendants*

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24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 DATED: January 4, 2017
26 2016.

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28 CHARLES R. BREYER
United States District Judge

ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the other signatories above.

Dated: December 23, 2016

By: /s/ Bethany Engel
Bethany Engel